IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 264 of 2006

SUKHMAL CHANDRA
V/S
LR'S OF KAMRUDIN & ANR

Mr. RAKESH ARORA, for the appellant / petitioner

Mr. RAVI BHANSALI & Mr. DHANESH SRIVASTAVA for the respondent

Date of Order : 18.8.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant at length, and perused the impugned judgments.

Both the learned courts below have decreed the suit for redemption in favour of the plaintiffs who are purchaser from the original mortgagor Noor Ali.

The contention raised by the learned counsel for the appellant was firstly that the sale deed by Noor Ali in favour of the plaintiffs is not proved.

Suffice it to say that the plaintiffs have produced the certified copy of the sale deed, and mortgage deed, and plaintiffs' witnesses have duly proved them, and there is no rebuttal whatever, to that evidence

on the side of the defendant, rather the tenor of the cross examination to the plaintiff shows that the appellant wanted to claim to be owner of the property for which no material has been placed on record by the appellant. In that view of the matter, I do not find any error in the findings of the learned courts below, finding the plaintiffs to be entitled to redeem the property.

The other submission made is, that the mortgagee was Amanat Rai, and he having died, only Sukhmal Chandra has been impleaded as legal representative, while the deceased had left other legal representatives as well, in whose absence the suit abated.

Again suffice it to say, that there is no material on record to substantiate the averment, that Amanat Rai had left any more legal representatives, other than the present appellant. Thus, this contention also has no force.

Then, the next submission made was, that since Noor Ali had become evacuee, the property could not be purchased by the plaintiff in the year 1961, nor could the suit for redemption be filed. In this regard again it would suffice to observe, that some suggestion have been given to P.W.1 about Noor Ali having become evacuee, which suggestion has been denied by the witness, as his being not aware of this fact, but then, to substantiate this fact, no

material has been placed on the side of the appellant. Therefore, this contention also cannot be accepted.

No other point was argued.

This appeal thus does not involve any substantial question of law. The same is, therefore, dismissed.

(N P GUPTA),J.

/Sushil/